

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:15CV85

JOHN MILLER,

Plaintiff,

Vs.

DRIVEN BRANDS SHARED SERVICES,

Defendant.

ORDER

This matter is before the Court upon the Plaintiff's Motion for Attorneys' Fees pursuant to 28 U.S.C. § 1447(c). The Court entered an Order in this case on August 20, 2015 remanding this case to state court.

28 U.S.C. § 1447(c) allows the court to award costs and expenses, including attorney fees, incurred as a result of remand. In general, such fees are only awarded where the removing party lacked an objectively reasonable basis for seeking removal. *Martin v. Franklin Capital Corp.*, 546 U.S. 132, 141 (2005). In this case, the Court finds that the Defendant presented reasonable, good faith, and well researched arguments in support of ERISA preemption. See *Clark v. Ameritas Inv. Corp.*, 408 F. Supp. 2d 819, 835 (D. Neb. 2005) report and recommendation adopted, No. 4:05-CV-3251, 2006 WL 1401727 (D. Neb. May 19, 2006). Moreover, the law in this area is complex and unsettled. Accordingly, the Court will decline to award attorneys' fees to the Plaintiff.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Attorneys' Fees is hereby DENIED.

Signed: December 7, 2015



Graham C. Mullen
United States District Judge

